

**UNITED STATES DISTRICT COURT
IN THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

UNITED STATES OF AMERICA	§	
	§	
v.	§	CRIMINAL NO. C-07-290
	§	
CESAR MARTINEZ	§	

MEMORANDUM OPINION AND ORDER
DENYING DEFENDANT’S MOTION TO SUPPRESS

On June 25, 2007, the Court heard Defendant’s Motion to Suppress Evidence. In this case, United States Border Patrol agents made a traffic stop for suspected alien smuggling. Seven illegal aliens were found in Defendant’s vehicle. Defendant argues this evidence should be suppressed because the agents did not have reasonable suspicion of criminal activity to justify the stop. The Court finds Defendant’s motion should be DENIED.

Border Patrol agents on roving patrol may temporarily detain vehicles if they have reasonable suspicion the vehicle is involved in criminal activity. *United States v. Inocencio*, 40 F.3d 716, 722 (5th Cir. 1994) (citing *United States v. Brignoni-Ponce*, 422 U.S. 873 (1975)). Reasonable suspicion must be based on specific facts and rational inferences drawn from those facts. *Id.* To determine whether a Border Patrol agent has reasonable suspicion to initiate a traffic stop, the Court considers the following factors: (1) known characteristics of a particular area; (2) previous experience of the arresting agents with criminal activity; (3) proximity of the area to the border; (4) usual traffic patterns on a particular road; (5) information about recent illegal trafficking in aliens or narcotics in the area; (6) the behavior

of the vehicle's driver; (7) the appearance of the vehicle; and (8) the number, appearance and behavior of the passengers. *Id.* (citing *United States v. Casteneda*, 951 F.2d 44, 47 (5th Cir. 1992)).

On May 13, 2007, United States Border Patrol agents, Jeffery Bennett and Juan Barroso, were assigned roving patrol duty on Texas Highway 285 ("Texas 285"). Texas 285 runs east-west and is approximately 100 miles north of the United States-Mexico border. Texas 285 connects the towns Falfurrias and Riviera, Texas, which are approximately thirty miles apart. Texas 285 is notorious for alien smuggling.

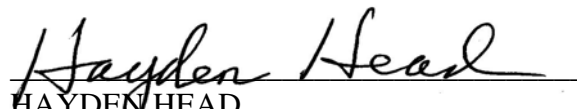
Around 12:30 a.m., the agents were driving westbound on Texas 285 toward Falfurrias. Three vehicles traveling in front of them. Defendant's vehicle turned south on Farm Road 2191 ("FR 2191") and made a quick stop near an open field.¹ The agents could see Defendant's brake lights from Texas 285. The agents continued traveling past FR 2191 so Defendant would not suspect he was being followed. The agents made a quick u-turn and began traveling east. Defendant made a u-turn on FR 2191 and then made a right turn onto Texas 285. Defendant began traveling east, the same direction he had come from moments earlier. The agents made a quick turn around on FR 2191 to avoid detection and began following Defendant on Texas 285. Defendant turned north on United States Highway 77, and the agents initiated a traffic stop. Two individuals fled into the surrounding brush, and seven aliens were found in Defendant's vehicle.

¹ FR 2191 runs north-south and intersects Texas 285.

The location of FR 2191 and the topography of the surrounding area are of particular significance in this case. South of Texas 285, FR 2191 is a remote, dead-end road that is approximately five miles long. It is sparsely populated and surrounded by ranch land that is full of brush. There are approximately five ranch homes along the road. FR 2191 is a common location for alien smuggling because it is located between the Encino and Sarita United States Border Patrol checkpoints. FR 2191 is also very close to certain interior walkways that aliens are known to follow. Agent Jeffery Bennett testified there is a gas pipeline and pole line that come together near FR 2191. Aliens are known to follow these lines and then cross over to FR 2191 for pick up. The agents have made hundreds of arrests on FR 2191.

Under these circumstances, the Court finds the agents had reasonable suspicion that Defendant was engaged in alien smuggling. The Court finds the traffic stop was lawful. Defendant's motion to suppress is DENIED.

ORDERED June 27, 2007.


HAYDEN HEAD
CHIEF JUDGE

